

APPEAL NO. 020780
FILED MAY 22, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 12, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____; that he did not timely report his alleged injury to his employer; that the claimant is not barred from pursuing workers' compensation benefits because of an election to receive group health benefits; and that the claimant did not have disability because he did not sustain a compensable injury. In his appeal, the claimant essentially argues that the hearing officer's injury, notice, and disability determinations are against the great weight of the evidence. The appeal file does not contain a response from the respondent (carrier).

DECISION

The hearing officer's decision and order have become final under Section 410.169 because the claimant's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Pursuant to Section 410.202(d), for appeals filed on or after June 17, 2001, Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code are not included in the computation of the time in which a request for appeal under subsection (a) or a response under subsection (b) must be filed. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that a request for appeal shall be presumed to be timely filed if it is (1) mailed on or before the 15th day after the date of receipt of the hearing officer's decision; and (2) received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994.

The hearing officer's decision was distributed to the parties on February 20, 2002. Pursuant to Rule 102.5(d), the claimant was deemed to have received the hearing officer's decision five days later on Monday, February 25, 2002. Based on the February 25, 2002, date of receipt, the 15-day deadline for filing the appeal was March 18, 2002. In the document received by the Appeals Panel, which is dated March 27, 2002, and is postmarked March 28, 2002, the claimant asserts that he was mailing his appeal for the second time. However, the March 27 document is the only copy of the claimant's appeal that we received. Accordingly, the March 28 postmark date is the mailing date we must

consider in determining timeliness and, as such claimant failed to satisfy the 15-day deadline and his appeal is therefore untimely.

The hearing officer's decision and order have become final under Section 410.169.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge